

AO 91 (Rev. 11/11) Criminal Complaint

FILED**UNITED STATES DISTRICT COURT**
LAS CRUCES, NEW MEXICO**UNITED STATES DISTRICT COURT**

for the

District of New Mexico

APR 22 2022**MITCHELL R. ELFERS**
CLERK OF COURT

United States of America)

v.)

Jason Ross-Lattion Fleming)

Case No. **22-656 MJ**_____
*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 2021 - December 2021 in the county of Otero in the
State and District of New Mexico, the defendant(s) violated:*Code Section**Offense Description*

18 U.S.C. § 2252A(a)(6)(A)

Providing child pornography to a minor

18 U.S.C. § 2252A(a)(5)(B)

Possession of child pornography

18 U.S.C. § 2422(b)

Coercion and enticement of a minor

I further state that I am a Homeland Security Investigations Special Agent
and that this complaint is based on the following facts:

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

☒ Continued on the attached sheet.

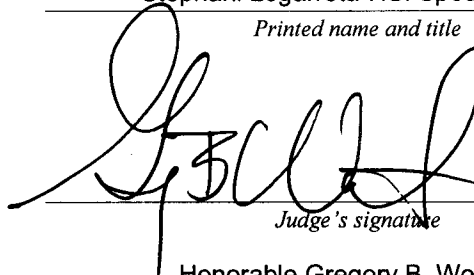
STEPHANI M LEGARRETA

Digitally signed by STEPHANI M LEGARRETA
Date: 2022.04.21 15:54:17 -06'00'*Complainant's signature*

Stephani Legarreta-HSI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: **22 Apr 2022**City and state: Las Cruces, New Mexico*Judge's signature*

Honorable Gregory B. Wormuth

Printed name and title

Affidavit

1. I, Special Agent Stephani Legarreta, your Affiant, have been a Special Agent with Homeland Security Investigations (HSI) and have been so employed since January of 2008. I am classified, trained, and employed as a federal law enforcement officer with statutory arrest authority charged with conducting criminal investigations of alleged violations of federal criminal statutes, including Title 18 of the United States Code. I am currently assigned as a criminal investigator for the Assistant Agent in Charge (ASAC), Las Cruces, New Mexico. Prior to my current position, I was a student for six (6) years at New Mexico State University, where I received my Bachelor's and Master's Degree in Criminal Justice. During the course of investigation, I have consulted with other HSI Agents and other law enforcement detectives and officers who have extensive experience investigating child exploitation. Your Affiant has conducted numerous state and federal investigations and received training, education, and experience with the identification and investigation of child exploitation violations. I have been personally involved with the execution of arrest warrants and search warrants to search residences, businesses and seize materials relating to child exploitation.
2. The information set forth in this affidavit was derived from my own investigation and/or communicated to me by other sworn law enforcement officers. Because this affidavit is submitted for the limited purpose of securing a criminal complaint, your affiant has not included each and every fact known to me concerning this investigation. Your affiant has set forth only those facts that your affiant believes are necessary to establish that probable cause to support a criminal complaint against Jason Ross-Lattion Fleming for providing to a minor pictures of child pornography, in violation of 18 U.S.C. § 2252A(a)(6)(A),

possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B), and coercion and enticement of a minor, in violation of 18 U.S.C. § 2422(b).

Relevant Statutes

3. Title 18 U.S.C. § 2252A(a)(6)(A) makes it a crime to “knowingly distribute[], offer[], send[], or provide[] to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct that has been mailed, shipped, or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer.”
4. Title 18 U.S.C. § 2252A(a)(5)(B) makes it a crime to “knowingly possesses . . . material that contains an image of child pornography that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.”
5. Title 18 U.S.C. § 2422(b) makes it federal crime for “[w]hoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 10 years or for life.”

Details of the Investigation

6. On April 12, 2022, Homeland Security Investigations (HSI) received information from New Mexico State Police (NMSP) regarding an incident that occurred with a 10-year-old minor in Pinon, New Mexico. A 10-year-old minor (hereafter V1) had reported that a family friend, identified as Jason Fleming, molested her while she was visiting her dad in New Mexico. Fleming lives in Pinon, New Mexico, and V1 currently lives in Texas with her mother.
7. During a forensic interview, V1 revealed the following:
 - a. V1 stated she is 10 years old and in 4th grade and she believed she was in the interview because of what Fleming had done. V1 further explained Fleming had done weird things that she doesn't understand. V1 stated that prior to March of 2021, she was residing with her father in New Mexico. V1 stated during that time, she would visit Fleming on weekends. She also stated Fleming was a firefighter and he has a ranch where she would stay.
 - b. V1 disclosed the first time something happened with Fleming was when she was 9-years-old. V1 disclosed the first time, she did not touch "it" but that they were watching Snow White and the Seven Dwarfs at Fleming's house, in his loft bedroom. V1 disclosed that while watching the movie, Fleming "brought it out" and asked if she wanted to touch it. V1 clarified he took his "nuts" out. V1 told him no and walked away. Fleming told her not to tell anyone. V1 disclosed the second time something happened, he was "rubbing" her with "it." V1 stated she loves Reese's candy and that he would ask her to do "this" (she made an up and

down motion with her right hand and arm during the interview) if she wanted some Reese's. V1 said she was in the loft again when this happened.

- c. V1 disclosed Fleming would "tuck it" when he would leave the loft to get her candy in case anyone was downstairs. She stated in the loft, he would play a movie and they would act like they were watching a movie while they "did it." When Fleming asked her if she wanted Reese's, he told V1 she would have to "do this" and showed her videos. She stated she had previously seen the videos on his phone during a vehicle ride, the first time she went to his ranch. V1 described the videos as people "doing this" (made an up and down motion with her hand) and putting "it" in their mouth. V1 disclosed most of the people in the videos were kids. She also saw a video of Fleming and his first wife "doing it." She said there were also videos of sisters and brothers doing it, man and toddler, and tons of man and girl videos. She stated the girls were around her age. When asked if Fleming knew she was watching the videos while he was driving, she stated yes that he gave her the password to his phone.
- d. V1 stated Jason has two phones, a red one and a black one. She stated the phone she was watching the videos on was red. When asked how she got to the videos on his phone, she stated Jason gave her the password to the videos, and that she would watch them on the "vault." V1 also gave additional details about a time that Fleming had her put her hand on his "nuts," and disclosed that, one of the times, Fleming made her hand go "super fast" and white stuff came out. V1 stated the white stuff went on the rug that was on the floor. V1 stated she avoids

that spot because it grosses her out. V1 disclosed before the white stuff came out,

Fleming said “here it comes.”

8. Based on the information detailed above, NMSP obtained a state district court search warrant for, *inter alia*, Fleming’s cellphones. On December 9, 2021, NMSP executed the warrant and seized two cellphones from Fleming. One was a black Sonim work cellphone and the other was a black Samsung cell phone, which is identified as Fleming’s personal cellphone.
9. NMSP was able to narrow the time-frame of the sexual abuse described by V1 to January 2021 to March 2021. NMSP police learned from V1 that the abuse began after her father and ex-girlfriend broke up, which was at the beginning of January 2021. NMSP also learned that V1 stayed with mother, in Texas, after March 2021.
10. On April 18, 2022, HSI obtained and executed a follow-up federal search warrant on Fleming’s Samsung cell phone and identified numerous child pornography images. The identified child pornography material is within the thumbnail cache of a “GalleryVault” application (“app”). The forensic examiner was able to access the thumbnails, and determine that multiple images of child pornography are located in the “GalleryVault” app. Specifically, below is a description of two of the thumbnail images the forensic examiner was able to view:
 - a. Material depicts an image of a female, approximately 7 to 9 years old. The minor is lying on a bed with black leggings and black underwear on pulled down exposing her genital area. She is holding what appears to be a sex object, purple in color. The minor is placing it near her anus. An adult erect penis can be seen in the right-hand lower side of the photo.
 - b. Material depicts a female approximately 3 to 4 years old naked from the waist down. She has bruising all over her legs and a device hooked up to her genital area. There is a male erect penis inserted into her anus.

11. “GalleryVault” is an app manufactured by ThinkYeah, which is a company out of China.

A forensic examiner downloaded the app on a cellphone and verified that in order to store material in the application, the app automatically accesses a cloud account. In order to utilize the cloud account, the app must connect to the internet. The app then automatically backs up material to the cloud, therefore accessing the internet, periodically throughout the day. Thus, I know that the child pornography images contained in the “GalleryVault” app were uploaded using the internet. I also know from my training and experience that the internet is a facility of interstate commerce.

12. As described above, V1 stated she watched videos of child pornography provided to her by Fleming on “the vault.” Thus, I believe that V1 was accessing Fleming’s “GalleryVault” app to view the videos. In order to do so, Fleming’s cellphone would have had to have been connected to the internet.

13. In New Mexico, it is a crime for an adult to cause a minor under thirteen to engage in fellatio. NMSA § 30-9-11D(1). As described above, Fleming showed V1 videos of individuals putting “it,” which I believe is a reference to a penis, in their mouth.

Conclusion

14. Based on all of the above information, your affiant submits there is probable cause to believe that Jason Ross-Lattion Fleming provided to a minor pictures of child pornography, in violation of 18 U.S.C. § 2252A(a)(6)(A), possessed child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B), and coerced and enticed of a minor, in violation of 18 U.S.C. § 2422(b).

15. Prosecution of Jason Ross-Lattion Fleming was approved by Assistant United States

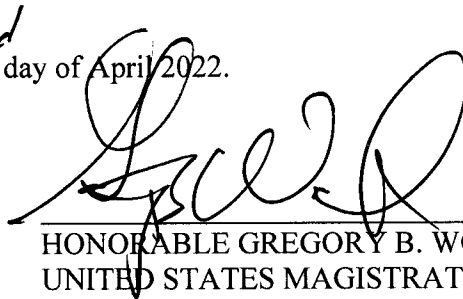
Attorney Marisa A. Ong.

STEPHANI M
LEGARRETA

Digitally signed by STEPHANI M
LEGARRETA
Date: 2022.04.21 15:54:51 -06'00'

Stephani Legarreta, Special Agent
Homeland Security Investigations

Subscribed and sworn before me this 22^d day of April 2022.

A handwritten signature in black ink, appearing to read "Gregory B. Wormuth", is written over a horizontal line.

HONORABLE GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE